

1901e-012 Chancery Causes: James Sloan vs. James Grubb & Lee Co.

Bales, Shipley, Wolfenbarger, Shipley

1 Plat

CA-Contract Dispute  
T-Property



Sept. 27, 1937.

To the Hon. H. A. W. Skeen.

Judge of the Circuit Court of Lee County.

Humbly complaining your orator, Jamex Sloan, Will respectfully show you honor that one Jacob Wolfenbarger, several years ago, departed this life leaving a large and valuable real-estate situated on the Rosehill magisterial district of Lee County, leaving a widow Elizabeth Wolfenbarger and seven children to-wit. John, Skillen, Fernando, and James Wolfenbarger, Rhoda Wolfenbarger who inter-married with L. S. Bales, Lavina, who inter-married with ~~Blanche~~ <sup>Milton</sup> Shipley and Martha who inter-married with William Grubb to whom his said lands descended; that dower <sup>was assigned</sup> to his said widow and that she departed this life.

Your orator now further show your honor that he purchased ~~the~~ shares in said dower of the said John, Skillen, Fernando and James Wolfenbarger which said shares he still owns, that the said Martha Grubb is dead, leaving the following children her heirs at law to-wit, James Grubb, Charles ~~Grubb~~ <sup>Milton Grubb & Robert Grubb</sup>, and Maggie Grubb, that the ~~four~~ last named are infants under the age of 21 years.

Your orator will now further show your honor that said land is susceptible of partition that he owns land adjoining same, and that his 4/7 of said tract of land can be laid off all in one body, and adjoining his other lands without injury to the rights of the other parties interested.

His prayer therefore is that said land be partitioned that commissioners be appointed for that purpose and that his four shares be laid off together adjoining his other lands and being without ~~any~~ <sup>anybody</sup> at law, he prays your honor's Court of Chancery to take cognizance of his cause and grant him the proper relief and ~~have~~ <sup>to</sup> this end ~~he~~ <sup>Milton Grubb & Robert Grubb</sup> makes James Grubb, Charles Grubb, Maggie Grubb, Rhoda Bales and L. S. Bales, her husband, ~~and~~ <sup>and</sup> Lavina Shifley and Milton Shifley, her husband the parties defendant to this bill, and they pray that they be required to answer the same but not under oath, that a guardian Ad Litem be appointed to answer for the infant



defendant; that upon a final hearing commissioners be appointed to partition said land among those entitled thereto and that full general relief be granted him.

And as in duty he will ever pray and etc.

*Duncan & Cridlin,*  
*attys for Plff.*



James Sloan  
 pr. J. M. Cly.  
~~James Sloan~~  
~~Wanda Bates et al~~  
 — Bill —

1906 1<sup>st</sup> April Rules  
 Bill filed for  
 execution as to  
 adult defendants &  
 D.N. as to  
 them  
 " 2<sup>nd</sup> April Rules  
 D.N. confirmed as  
 to ~~adult~~ <sup>adult</sup> defendants  
 to ~~them~~ <sup>them</sup> & cause  
 set for hearing as  
 to them.

Sloan for his part  
 in full. \$28.61

Costs:  
 Clerk \$10.06  
 Day 1.50  
 S.A.L. 5.00  
 Commr. 14.00  
 Shff. 4.50  
 Atty. \$35.06  
 \$50.06



JAS. SLOAN

vs.

JAS. GRUEB Et Al.

This cause came on again this day to be heard upon the papers formerly read therein and the report of M. M. Speak and others, commissioners appointed to partition the tract of land in the bill and proceedings mentioned, which report was filed on the 29th day of Nov. 1906; and was argued by counsel. And it appears <sup>ing</sup> to the court that no exceptions have been filed to said report, said report, and the partition therein reported, are hereby confirmed; and it is adjudged, ordered and decreed that James, Charles, Milton, Robert, and Maggie Grubb take and hold lot No. 1, by the meets and bounds thereof as shown on <sup>report and plat therewith</sup> said ~~plat~~; that Mrs. Rhoda Eales take and hold in fee simple, lot No. 2, by the meets and bounds thereof <sup>as</sup> shown by said report and plat; that Mrs. Melvina Shipley take and hold lot No. 3 by the meets and bounds thereof, as shown by said report and plat; that Jas. Sloan take and hold lots No. 4, 5, 6, and 7, in one body, by the meets and bounds thereof, as shown by said plat and report; and it is further adjudged, ordered and decreed that the clerk of this court record in proper deed book kept by him in his office for that purpose, the decree ~~of~~ appointing commissioners, the report and plat of said commissioners, and <sup>this</sup> ~~your~~ decrees confirming the same; and it is further adjudged, ordered and decreed that James, Charles, Milton, Robert, and Maggie <sup>Grubb</sup> pay one-seventh part of <sup>the cost of this cause</sup> ~~said cause~~; that Rhoda Eales pay a like one-seventh of said ~~cost~~, that Melvina Shipley a like one-seventh part of said <sup>cost</sup> ~~cause~~, and that James Sloan pay four-sevenths thereof, to be taxed by the clerk, including the clerks fee for recording said decrees, reports and plat, for which execution may issue; and this cause is stricken from docket.

Virginia, Lee County, to-wit:

In the Clerk's office of Lee County, on this the 17th day of December, 1906. The foregoing decrees, commissioner's report and plat were presented, ~~said together with the certificate annexed~~, admitted to record.

Teste: M. C. J. Ewing, Clerk.



James Sloan  
is. { in Chy.

James Kruttal  
Deere Trial

Entered in C.B.  
#8, page 232 re.

Recorded in Deed,  
Book 45, page 153  
Examined Dec. 22, 1906  
Indexed.

Enter this Deere  
James Sloan  
Dec. 11, 1906.



James Sloan

78

James Brubh. et al

This cause came on this day to be heard upon the bill of the complainant and the answer of the infant defendants by Geo P Condit their guardian ad litem this day filed in open Court and by leave thereof a general replication to said answer and was argued by Counsel. And it appearing to the Court that process has been duly served on the adult defendants for more than 30 days before the first day of this Term and that they have failed to appear, answer, plead or demur to said bill, it is taken for confessed as to them, and it further appearing to the Court that the plaintiff is entitled to have said land partitioned and that it is susceptible of partition in kind an order was made of which it is adjudged ordered and decreed that Mitchell Speak, John P Speak and John Rosenbark who are appointed commissioners for the purpose do go upon the land in the bill mentioned, it being the lower land of Elizabeth Wolfenbarger, <sup>senior</sup> which she held as widow of Jacob Wolfenbarger, <sup>deceased</sup> and partition and lay of the same among those entitled thereto and it appearing to the Court that James Sloan the plaintiff is su-



to four shares, being four sixths of  
said tract of land, said commissioners  
will therefore assign four sixths  
of said land, all in one body, if it  
can be done without injury to the rights  
of the other parties interested, to the said  
James Sloan one sixth to Rhoda Bates  
one sixth to Lavinia Shipley, and  
one sixth, in a body, to James, Charles,  
and Maggie Grubb. Said commissioners  
will have due regard to quantity, qual-  
ity, and convenience of said land,  
and they will further ascertain and de-  
termine whether or not the interest of  
the three Grubb heirs will be promoted  
by a sale of their share of said land.  
Said commissioners will report their  
action together with a plat of said  
portion to the next term of this court  
and this cause is continued.



James Sloan  
or 3 Dec 11  
James Smith & Co

Entered in C.O.B.

No. 8, page 218 &c

Recorded in Dred

Book 45, page 153

Examined Dec. 2<sup>nd</sup> 1906

Under ed.

Under this name

Hawthorn

Sept 25<sup>th</sup> 1906



Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereof, on Tuesday, the 25th day of September, 1906.

James Sloan,

Plaintiff.

vs.

James Grubb et al.

Defendants.

This cause came on this day to be heard upon the bill of the complainant, the answer of the infant defendants by Geo. P. Gridlin, their guardian ad litem this day filed in open court and by leave thereof and general replication to said answer and was argued by counsel. And it appearing to the court that process has been duly served on the adult defendants for more than 30 days before the first day of this term and that they have failed to appear, answer, plead or demur to said bill, it is taken for confessed as to them; and it further appearing to the court that the plaintiff is entitled to have said land partitioned and that it is susceptible of partition in kind. On consideration of which it is adjudged ordered and decreed that Mitchell Speak, John P. Speak and John Rosenbalm, who are appointed Commissioners for the purpose, do go upon the land in the bill mentioned, it being the dower land of Elizabeth Wolfenbarger, dec'd, which she held as widow of <sup>Jacob</sup>~~Joseph~~ Wolfenbarger, dec'd, and partition and lay of the same among those entitled thereto, and it appearing to the court that James Sloan, the plaintiff, is entitled to four shares, being four-sevenths of said tract of land, said commissioner will therefore assign four-sevenths of said land, all in one body, if it can be done without injury to the rights of the other parties interested to the said James Sloan, one-seventh to Rhoda Bales, one-seventh to Laura Shipley, and one-seventh in a body to James, Charles and Maggie Grubb. Said Commissioners will have due regard to quantity, quality and ~~convenience~~ of said land, and they will further ascertain and determine whether or not the interest of the three Grubb heirs will be promoted by a sale of their share of said land, ~~and~~ commissioners will report their action together with a plat of said partition



to the next term of this court, and this cause is continued.

*A Copy Teste:*  
*J. C. P. Ewing,*  
*Clerk.*

20017



James Sloan  
vs. J Deere  
James Grubb et al  
Copy for return

Executed By  
Serving a copy  
on each man  
this Oct 12, 1904  
H. M. Ball & Co



I., H. C. Bales. a J. P. of Lee Co. state of  
Va. do hereby certify, That J. P. Speak, John H.  
Rosenbalm <sup>and</sup> M. M. Speak personally appeared be-  
fore me and were duly sworn to faithfully  
perform thier duties as Commissioners in the  
land of Elizabeth Wolfenbarger (dec'd.) ~~land~~ which  
she held as widow of Jacob Wolfenbarger dec'd.  
And to partition and lay off the same among  
those entitled thereto.

Sworn to before me This Oct 19<sup>th</sup> 1900  
H. C. Bales, J. P.







James Sloan, Plaintiff, )  
Vs )  
James Grubb, et al, Defendants )

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IN CHANCERY.

To The Honorable H. A. W. Skeen,  
Judge Of The CIRCUIT COURT Of Lee, Co., Virginia.

We, the undersigned, who were, by a decree rendered by your Honor in the above styled cause, on the 25th day of September, 1906, appointed commissioners for the purpose, and directed to go upon the lands in the Bill in said cause mentioned, it being the dower land of Elizabeth Wolfenbarger, (Seal) deceased, and partition and lay off the same among those entitled thereto, beg leave to report as follows;

That, pursuant to said decree, we did go upon said lands on the 18th day of October, 1906, and surveyed the entire boundary and found courses and distances as follows:

"BEGINNING" at a stake where two poplars once stood, in a line of D.C.Campbell (Now John Campbell) and with the Campbell line N.4° 48'E. 66 po. and 5 lks., to



a gum in said line. Then leaving the Campbell line, S.78° E.131po., and 12 lks., to a stake near a branch; said stake is on the west bank of branch. Then S. 23° 30'E., 58 po., and 17 lks., to a stake. Then S.45° W.,90 po. to a white-oak in the Bales line (Now Ben Hensley's). Then with said line N.44° 45'W. 119 po. 18 lks., to a stone where a locust stump is uprooted. (Stump still there.) Then S.58° W., 12 po., to the "BEGINNING." Containing 82.5 Acres, more or less.

We then proceeded to partition and lay off the same to those entitled thereto as follows, to-wit:

To James, Charles, Milton, Robert and Maggie Grubb, we assigned Lot No.1, as shown on accompanying map.

Said lot is bounded as follows:

"BEGINNING" at a gum (4 A.) in the Campbell line: Then S.78° E., 131 po. and 12 lks., to a stake (1 A.) at a branch, said stake is on the west bank of branch. Then S.23° 30'E., 27 po. and 20 lks. to a stake (2A.) corner to Lot No.2. Then N.74° 30'W. 145 po. and 15 lks to a stake (3A.) in the Campbell line (some dogwoods marked as pointers to said stake.) Then with the



Campbell line N.4° 48'E., 12 po. and 20 lks., to the  
 "BEGINNING." Containing 15.00 Acres, more or less.

To Mrs. Rhoda Bales we assigned Lot No.2, as per  
 map and bounded as follows:

"BEGINNING" at a stake (3A.) a corner to Lot No.1  
 and with a line thereof S.74° 30'E., 145 po. and 15 lks.,  
 to a stake (2A.). Then S.23° 30'E., 24 po. and 20 lks.,  
 to a stake (1 B.). Then N.71° 54'W., 159 po. and 15 lks.  
 to a stake (2 B.) in the Campbell line. Then with the  
 Campbell line N.4° 48'E., 12 po. and 20 lks., to the  
 "BEGINNING." Containing 15.00 Acres, more or less.

To Mrs. Melvina Shipley we assigned Lot No. 3, as  
 per map; and bounded as follows:

"BEGINNING" at a stake in the Campbell line, a  
 corner to Lot No. 2; and with a line of same S.71° 54'E.  
 159 po., and 15 lks. to a stake (1 B). Then S.23° 30'E.,  
 6 po. and 2 lks., to a stake (1 C.). Then S.45° W.10  
 po. to a stake (2 C.) near two poplars marked as pointers.  
 Then N.71° 12'W., 157 po. and 12 lks., to a stake (3 C.)  
 in the Campbell line. Then with the Campbell line, N.4°  
 48'E., 12 po., to the "BEGINNING." Containing 12.50 Acres,  
 more or less.



To James Sloan we assigned Lots No.4, 5, 6 and 7, all in one body, and bounded as follows:

"BEGINNING" at a stake (3 C.) in the Campbell line, said stake a corner to Lot No.3, and with a line thereof S.71° 12'E., 157 po. and 12 lks., to a stake (2 C.) near two poplars marked as pointers. Then S.45° W., 80 po. to a white-oak (1 D.) in the Bales line (Now Hensley's). Then with said line N.44° 45'W., 119 po. and 18 lks., to a stone where a Locust stump (2 D.) has been uprooted, (stump still there.) Then S.58° W., 12 po., to a stake (3 D.) in the Campbell line, where two poplars once stood. The said poplars were the beginning corner of the original (dower) tract. Then with the Campbell line N.4° 48'E. 28 po. and 15 lks., to the "BEGINNING." Containing 40.00 Acres, more or less.

Reference is here made to the said "plat", or "map" attached to this report, showing the boundaries of the entire tract, as well as the boundaries of each of the lots laid off and assigned herein to the several parties entitled to an interest in said land, and said "plat" or "map" is asked to be taken as part of this report.

It will be noted that we have laid off and as-



signed one-seventh to James, Charles, Milton, Robert and Maggie Grubb, instead of to only James, Charles and Maggie Grubb, as directed by your Honor's decree. We did this because we were informed that the names of Milton and Robert Grubb had been omitted from the decree by mistake, and we were asked by attorneys in the case, as well as the guardian ad litem for the infants to make the assignment in accordance with the facts, naming all the children entitled to an interest in this share (No.1).

It will also be seen that we laid off one-seventh to Melvina Shipley instead of to Laura Shipley, as directed by said decree. We did this because we learned that Melvin, and not Laura, is the true name of the heir entitled to this share (No.3).

We are also directed to ascertain and to report whether or not the interest of the Grubb heirs will be promoted by a sale of their share of said land. On this reference we beg leave to report that we are of the opinion that the selling of their land at the present is not to the best interest of said heirs.

We have taken special notice in the partitioning of the above lands in regard to quality, quantity and convenience of same. The manner in which we did same, was



agreed upon after diligent thought and deliberation in regard to same.

All of which is respectfully submitted, this the  
29th day of Nov. 1906.

(Signed)

M. M. Speak  
J. P. Speak  
John Rosenthal

Commissioners.

Note:---The courses given are all on the present "Magnetic Bearing," October, 1906.

M. M. Speak, Surveyor.

### Casts

M. M. Speak, Surveyor.	\$ 8.00
J. P. Speak, Commissioner	3.00
John Rosenthal	3.00
	<u>\$ 14.00</u>



James Sloan

vs. } Comve. Report. Book 45; page 153\*

James Grubb et al Examined Dec. 22, 1906  
Indexed

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Filed Nov. 29, 1906.

H. C. P. Ewing,  
Clerk.



The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *Rhoda Bales, & L. S. Bales, her*  
*husband, Waringa Shipley & Milton Shipley, her hus-*  
*band, James Grubb, Charles Grubb & Maggie*  
*Grubb, heirs at law of Martha Grubb, deceased,*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on  
the *1st* Monday in *April*, 190*6*, to answer a bill in chancery exhibited against *them*  
*by James Sloan*

And have there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *16th*,  
day of *March*, 190*6*, and 1 *30* " year of the Commonwealth.

A Copy, Teste:

*H. C. T. Ewing*, Clerk.

*H. C. T. Ewing*, Clerk.



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VS

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SUBPENA  
IN  
CHANCERY.

-----p. q

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To-----Rules.

-----Court.

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The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon *R. Roda Bales & L. S. Bales, her husband, Wavina Shifley & Milton Shifley, her husband, James Grubb, Charles Grubb & Maggie Grubb, heirs at law of Martha Grubb, deceased,*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the *1st* Monday in *April*, 190*6*, to answer a bill in chancery exhibited against *Them* by *James Sloan*.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *16th* day of *March*, 190*6* and 1*30*" year of the Commonwealth.

A Copy, Teste:

*H. C. T. Ewing*, Clerk.

\_\_\_\_\_, Clerk.



James Sloan

VS

SUBPŒNA  
IN  
CHANCERY.

Rhoda Balu et al

D. & C.

p. q

To 1<sup>st</sup> April

Rules.

Lee Circuit  
1906

Court.

Executed by serving above copy on  
Rhoda Balu & L & S Balu Varaid Shupler  
& James Shukla & Charly Shukla  
March 26 1906  
J. M. Ball S. C.